

Mary, Dutcheſs
Dowager of
Beaufort,

Appellant.

Rebecca Lady Dowager Granvile, the Lady
Henrietta Somerſet, James Duke of Or-
mond, and Mary Dutcheſs of Ormond his
Wife; Henry Earl of Suffolk and Bindon,
and Henrietta Counteſs of Suffolk and
Bindon his Wife; Anne Counteſs Dowager
of Coventry, Henry Duke of Beaufort, and
the Lord Arthur Somerſet.

Respondents.

The Lady Granvile and Lady Henrietta Somerſet's Caſe.

HENRY, Late Duke of Beaufort had Iſſue by the Appellant, Charles, Late Marquiſs of Worceſter (His Elder Son) the Lord Arthur Somerſet (His Younger Son) and 3 Daughters, the Dutcheſs of Ormond, and Counteſſes of Suffolk and Coventry.

The Late Marquiſs of Worceſter had Iſſue by the Lady Granvile, the now Duke of Beaufort (His Eldeſt Son) the Lords Charles and John Somerſet (both now deceaſ'd) and the Lady Henrietta Somerſet, and dy'd in the Life-Time of the Late Duke His Father.

20 Jan. 1699. The Late Duke in His Life-Time ſettl'd Eſtates of about 2000 l. per Annum, and an Annuity of 1000 l. per Annum, on the Appellant (His Wife) for Life for Her Jointure, and convey'd Eſtates of 500 l. per Annum to the Lord Arthur (His Younger Son) in Tail, and preferr'd His 3 Daughters in Marriage, giving to the Dutcheſs of Ormond 12500 l. and to the Counteſſes of Suffolk and Coventry 10000 l. each for their Portions.

The Late Duke (having Perſonal Eſtate of above 50000 l. Value) by His Laſt Will in Writing, committed the Care and Expence of His Funeral to the Diſcretion of the Appellant, and gave Her the Uſe of His Silver Plate for the Service of the Table (worth about 2000 l.) during Her Life, and after Her Death, He gave the ſame to the now Duke of Beaufort, and alſo gave Him ſome Jewels and other Things; and to the Lord Arthur, and his ſaid 3 Daughters 100 l. apiece; and alſo gave Eſtates of about 1000 l. per Annum to the Lord Arthur for Life, Remainder as to Part to the Lady Mary His Wife for Life, and the Whole in Remainder to the Lord Arthur's Firſt and Other Son and Sons by Her ſucceſſively in Tail Male; upon Condition that the Lord Arthur ſhould convey the other Eſtates ſo before convey'd to Him to the now Duke of Beaufort (which He hath done accordingly) and made the Appellant His Executrix.

The Late Duke by a Codicil of the ſame Date, gave the Appellant a Rent Charge of 500 l. per Annum for Life, out of His Houſes, called Beaufort-Buildings, but made no Diſpoſition of the Reſiduum of His Perſonal Eſtate, either by His Will or Codicil.

The Late Duke dy'd a few Days after He ſo made His Will and Codicil, leaving Perſonal Eſtate of above 50000 l. Value, which exceeded his Debts, Legacies, and Funeral Charges above 30000 l.

The Lord John Somerſet is ſince dead, and the Lady Granvile (His Mother) is His Adminiſtratrix. The Lord Charles Somerſet is alſo lately dead, and the Lady Henrietta Somerſet is His Sole Executrix; whereby the Lady Granvile and Lady Henrietta Somerſet are become entitul'd to the Lord Charles and Lord John Somerſet's Shares of the Reſiduum of the Late Duke's Perſonal Eſtate; And the Lady Henrietta is alſo entitul'd to a Share in Her own Right. And the now Duke of Beaufort is likewiſe entitul'd to, and claims another Share.

Trin. Term. 1709. The Lady Granvile, the Lord Charles and Lady Henrietta Somerſet exhibited their Bill in Chancery againſt the Appellant, and the other Respondents, to have an Account from the Appellant of the Late Duke's Perſonal Eſtate, and that the Reſiduum thereof might be diſtributed purſuant to the ACTS of Parliament for The Better Settling of Inteſtates Eſtates, and they have their Shares thereof,

Febr. 24. 1709. Upon Hearing the Cauſe the Court declar'd the Late Duke ought to be deem'd to have dy'd Inteſtate as to the Reſiduum of His Perſonal Eſtate not deviſed by His Will, and that ſuch Reſiduum ought to be diſtributed according to the ſaid ACTS, and DECREED the ſame accordingly; And that the Appellant ſhould Accompt for the ſaid Perſonal Eſtate before a Maſter of the ſaid Court.

From which DECREE the Appellant hath appeal'd to this Moſt Honourable Houſe.

The ſaid Respondents do Humbly inſiſt, That the Appellant is excluded from Claiming the Reſiduum of the ſaid Late Duke's Perſonal Eſtate as Executrix, in Regard She hath ſuch Specifick Legacy giv'n to Her by His Will; And that the ſaid Decree is Juſt, and Well-warranted by the Rules of Equity, and Judicial Determinations of this Moſt Honourable Houſe in like Caſes;

And Humbly hope, That the ſaid Decree ſhall be Affirmed, and the ſaid Appeal diſmiſs'd with Coſts.

John Pratt.